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EXAMINER

HANNE, SARA M

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| ART UNIT | PAPER NUMBER |
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2179

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/004,239 | BURESH ET AL. | |
| | Examiner | Art Unit | |
| | Sara M. Hanne | 2179 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment received on June 26, 2006. Claims 1-20 and new claims 21-23 are pending in the application. Examiner notes that new Claim 20 is substantially identical to Claim 2. The examiner spoke with Attorney of Record Jack Schwartz to clarify amendments to the claims.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-23 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 6 and 9 contain limitations regarding individually selectable rows and columns for each of two configurations not disclosed in the specification. Furthermore the data selection described in the specification refers to ref. 38, 39, 29 and 50, inconsistent with the intended invention as seen by later in the claims where the cell's dimensions change according to the data selection.

4. Claims 1-23 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter

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which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear what is meant by the claim amendments. How can arrangements be predetermined and fixed if they are the number of rows and columns are user selectable? Why, in step (b), does it state "a single menu of a plurality of different user selectable data selections" if the limitation is referring to cell arrangements and not actual data selections? The data selections have been defined by the specification to be the information inserted into the cells. In this way, the claim does not make sense when interpreted along with Figure 17.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The amendments to the claims include the limitation previously mentioned with respect to 35 U.S.C. 112, first paragraph such that the cells have a user selectable number of cells per row and cells per column (the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable. Does this mean the user can change the number of cells, columns or rows or does it mean once the table is added the cells can be selected

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individually or by row or column? The limitation is ambiguous and does not accurately reflect what appears to be the main aspect of the invention (Figure 17).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-2, 4-8, 14-15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gauthier et al., US Patent Application Publication

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2002/0036662, hereinafter Gauthier and further in view of Roewer, US Patent 5734915.

As in Claim 1, Gauthier teaches a method in a computer system comprising receiving instructions from the user to select a tabular format (The URL of Figure 10 is accessed), in response to the selection, displaying to the user a single menu of a plurality of different user selectable data selections each data selection providing a cell arrangement (Figure 10 is a menu of data selections each row is a cell arrangement, differing from the other rows by presentation of what it contains) for display in tabular format (Figure 11 and corresponding text), and adjusting dimensions of a selected cell within a selected one of cell arrangements to permit display of a data selection (inherent in Gauthier by the inclusion of Microsoft Excel. All Excel documents provide user expandable and contractible columns and rows so that all of the data may be displayed to the user). While Gauthier teaches selection of tabular format, displaying cell arrangements for selection by the user to display a table and adjusting the dimensions of a selected cell, they fail to explicitly teach the two different predetermined fixed user selectable cell arrangements for display such that each has a user selectable number of cells per row and cells per column, and the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable as recited in the claims. In the same field of the invention, Roewer teaches a table creation method similar to that of Gauthier. In addition, Roewer further teaches the user instructing the system to select a table format, and in response displaying a

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menu of data selections, providing two different predetermined, fixed user selectable cell arrangements (Figures 4A-C and corresponding text) such that each has a user selectable number of cells per row and cells per column, and the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable (as seen in Fig. 4A, the user may select a 1X1 grid, 2X1 grid, 4x3 grid, etc.). It would have been obvious to one of ordinary skill in the art, having the teachings of Gauthier and Roewer before him at the time the invention was made, to modify the table presentation method taught by Gauthier to include the two different predetermined fixed user selectable cell arrangements for display such that each has a user selectable number of cells per row and cells per column, and the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable of Roewer, in order to obtain two different fixed predefined cell arrangements for data display within a table such that each has a user selectable number of cells per row and cells per column, and the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable. One would have been motivated to make such a combination because user customized layout would have been obtained, as taught by Roewer.

As in Claims 2 and 20, Gauthier teaches the arrangement having a first row with a first number of columns and a second row with a different second number of columns (Fig. 3, ref. 340, the first row has 5 columns and the second row has 7 columns).

As in Claim 4, Gauthier teaches the activity of displaying to the user a color selection menu listing possible background color choices for each selected portion of the tabular format (Fig. 9, step 930).

As in Claim 5, Gauthier teaches displaying to the user a file name selection menu displaying a region in which all previous user selections may be saved for future use (Figure 4, Microsoft Excel Book 1, save function and Pg. 15, Par. 128 et seq.).

As in Claim 6, Gauthier teaches a display specification method, comprising the activities of displaying an image set of predefined tables each having a plurality of cells in a respective one of a plurality of user selectable cell arrangements (Figure 10 is a menu of data selections each row is a cell arrangement, differing from the other rows by presentation of what it contains), selecting one of the predefined tables (Figure 4, ref. 340), displaying the predetermined arrangement of cells defined by the predefined table (Figure 5), displaying a data selection menu for cells in the predefined table (Figures 5 and 18) selecting one data set from the data selection menu for a cell (Col A), and in response to the selection of adjusting the dimensions of some cells to permit legible data display (inherent in Excel to change dimensions of a cell to permit display see claim 1 *supra*) While Gauthier teaches selection of tabular format, displaying cell arrangements for selection by the user to display a table and adjusting the dimensions of a selected cell, they fail to explicitly teach the two different predetermined fixed user selectable cell arrangements for display such that each has a user selectable number of cells per row and cells per column,

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and the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable as recited in the claims. In the same field of the invention, Roewer teaches a table creation method similar to that of Gauthier. In addition, Roewer further teaches the user instructing the system to select a table format, and in response displaying a menu of data selections, providing two different predetermined, fixed user selectable cell arrangements (Figures 4A-C and corresponding text) such that each has a user selectable number of cells per row and cells per column, and the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable (as seen in Fig. 4A, the user may select a 1X1 grid, 2X1 grid, 4x3 grid, etc.). It would have been obvious to one of ordinary skill in the art, having the teachings of Gauthier and Roewer before him at the time the invention was made, to modify the table presentation method taught by Gauthier to include the two predetermined fixed user selectable cell arrangements for display such that each has a user selectable number of cells per row and cells per column, and the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable of Roewer, in order to obtain multiple fixed predefined cell arrangements for selection for data display within a table such that each has a user selectable number of cells per row and cells per column, and the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable. One would

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have been motivated to make such a combination because user defined layout would have been obtained, as taught by Roewer.

As in Claim 7, Gauthier teaches positioning an indicator of a pointing device over a cell border within the selected table, selecting the border of the cell, moving the indicator and selecting the desired position to define a new cell border location (feature of Microsoft excel).

As in Claim 8, Gauthier teaches positioning an indicator of a pointing device over a border of a column containing at least two cells within the selected table, selecting the border of the column, moving the indicator and selecting the desired position to define a new cell border location, and redimensioning the cells within the column so as to abut the new column border location (feature of Microsoft excel).

As in Claims 14, 15 and 19, Gauthier teaches a varying number of rows for each column in the cell arrangement (Fig. 5).

As in Claims 17-18, 21-22 Gauthier teach adjusting only the width of cells in a single row of a cell arrangement having a plurality of rows (See Claim 7 *supra*).

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gauthier et al., US Patent Application Publication 2002/0036662, hereinafter Gauthier and Roewer, US Patent 5734915, and further in view of Kumagai, US Patent 5812983.

As in Claim 3, Gauthier and Roewer teach a user section of tabular format from a list of predefined formats, displaying a menu of data selections to be

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placed within portions of the tabular format, and adjusting dimensions of portions of the tabular format to permit display of the data selections (See rejection of Claims 1 and 6 *supra*). While Gauthier and Roewer teach the table display and assigning of data to selected cells by a manual pointing device, they fail to show the user selecting two waveforms from the menu to be displayed simultaneously within the first cell, one superimposed upon the second as recited in the claims. In the same field of the invention, Kumagai teaches a selectable table interface for displaying data similar to that of Gauthier and Roewer. In addition, Kumagai further teaches the user selecting two waveforms from the menu to be displayed simultaneously within the first cell, one superimposed upon the second (Figures 5 and 12b with corresponding text). It would have been obvious to one of ordinary skill in the art, having the teachings of Gauthier, Roewer and Kumagai before him at the time the invention was made, to modify the selection of a predefined table, cell data assignment and cell dimensioning taught by Gauthier and Roewer to include the user selection of two waveforms to be displayed simultaneously within the first selected portion of the tabular format of Kumagai, in order to obtain display of two waveforms within one selected cell. One would have been motivated to make such a combination because a direct visual comparison of data within the same axes would have been obtained, as taught by Kumagai (Col. 3 line 32 et seq.).

5. Claims 9-13, 16 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gauthier et al., US Patent Application Publication

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2002/0036662, hereinafter Gauthier and Roewer, US Patent 5734915, further in view of Smith et al., hereinafter Smith, US Patent 6188407.

Gauthier and Roewer teach selecting a table from a single menu of a plurality of different user selectable tables comprising a first table including a plurality of cells in a predetermined, fixed user selectable cell arrangement, a second table including multiple cells in a different second predetermined, fixed user selectable cell arrangement, such that each has a user selectable number of cells per row and cells per column, and the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable and a table display with multiple cells and assignment of data to the 2 cells by user selection by manipulation of a manual pointing device (See rejection of Claims 1 and 6, containing the motivation for combining Gauthier and Roewer *supra* and Figure 12 with corresponding text). While Gauthier and Roewer teach the table display and assigning of data to selected cells by a manual pointing device, they fail to show the streams of real time medical data as the information within the cells as recited in the claims. In the same field of the invention, Smith teaches a selectable interface for displaying data similar to that of Gauthier and Roewer. In addition, Smith further teaches selection and display of real time medical data onscreen (Figure 2, ref. 24 and corresponding text). It would have been obvious to one of ordinary skill in the art, having the teachings of Gauthier and Roewer and Smith before him at the time the invention was made, to modify the selection of a predefined table, cell data assignment and cell dimensioning such that each has a user selectable

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number of cells per row and cells per column, and the number of cells in each individual row is individually selectable and the number of cells in each individual column is individually selectable taught by Gauthier and Roewer to include the display of real time medical data of Smith, in order to obtain a tabular interface for selection and display of real time medical data. One would have been motivated to make such a combination because a user-customized medical parameter tracking method would have been obtained, as taught by Smith.

As in Claim 10, Gauthier teaches the activity of displaying a display selection menu upon selecting a cell within the table (See Claim 1 rejection *supra*).

As in Claim 11, Gauthier teaches the activity of listing in association the display selection menu a choice of data and cell appearance submenus (See Claim 4 rejection *supra*).

As in Claim 12, Gauthier teaches saving the displayed table, creating a second table having multiple cells; and inserting the saved table into a cell of the second table (Pg. 7, Par. 68 et seq.).

As in Claim 13, Gauthier teaches inserting a display generated in response to an Internet connection into a cell of the second table (Figure 12 and corresponding text).

As in Claim 16, Roewer teaches a varying number of rows for each column in the cell arrangement (change page format).

As in Claim 23 Gauthier teach adjusting only the width of cells in a single row of a cell arrangement having a plurality of rows (See Claim 7 *supra*).

Response to Arguments

Applicant's arguments filed 6/26/06 have been fully considered but they are not persuasive.

In a phone conversation with Jack Schwartz on 9/12/06, the examiner attempted to ascertain the meaning of the amendments made to the claims, however the examiner feels that the claims amendments are erroneous and inconsistent in accordance with the specification and intended invention (See 112 rejections *supra*).

In response to the applicant's arguments that Roewer nor "Gauthier neither discloses nor suggests a 'single menu' enabling user selection of a 'first data selection including a first predetermined, fixed user selectable cell arrangement' ... for display in a tabular format and a 'second data selection including a different second predetermined, fixed user selectable cell arrangement' ", the examiner disagrees. Gauthier teaches selection of multiple cells at a time. For example, the user may select the first two rows or the last three rows thereby selecting two different cell arrangements. Furthermore Roewer teaches a single menu including two predetermined fixed user selectable different cell arrangements as seen *supra*.

In response to arguments regarding the newly added limitations to the claims the examiner agrees stating in the above rejections that this is taught by Roewer. Roewer shows in the figures that the user may select the number of rows and number of columns individually.

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In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the prior art of Roewer explains why preconfigured cell arrangements are useful to a user (Col. 4, line 65-Col. 5, line 5) in order to save time and allow the user to configure a view to their liking.

Examiner notes that the newly cited prior art is highly relevant to the claimed subject matter should the claims be interpreted differently. East and Word both show cell configurations of various forms in accordance with the invention. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach similar medical monitoring systems and tabular customizable interfaces.

The examiner invites the applicant to contact her, should the applicant wish to discuss the claims with respect to furthering prosecution.

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara M. Hanne whose telephone number is (571) 272-4135. The examiner can normally be reached on M-F 7:30am-4:00pm, off on alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WEILUN LO can be reached on (571) 272-4847. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smh



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SUPERVISORY PATENT EXAMINER